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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter Of

Amendment of the Commission's
Rules To Provide Channel

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) PR Docket No. ~~93-35~~
) RM-7986

93-35

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this necessary function and the operators cannot enjoy the full efficiencies and potential of the shared spectrum. Exclusivity will eliminate these gaps in use and provide for more efficient use of each channel to deliver promptly and reliably the public's messages.

The exclusivity proposed by the Commission's NPRM would further relieve the Commission's scarce resources in the handling of cochannel interference complaints which have increasingly arisen due to operation of competing, cochannel PCP operations. Resolution of these conflicts has been quite costly for the Commission and exclusivity would eliminate substantially the Commission's burden in administration of the 929-930 MHz band, while encouraging greater offerings of service to the public.

The net effect of adoption of the Commission's proposals will be lessening of cost, for the Commission in reducing its administrative burdens; for operators in lessening their risks and increasing the efficiency of operation; and for consumers, who will eventually reap the benefit of operators' more competitive position.¹

¹ Such cost savings are necessary to encourage the expense of constructing 900 MHz systems which typically require more associated transmitters than competing systems employing lower frequency bands. In essence, exclusivity would create a level playing field between VHF, UHF and 900 MHz paging systems and competition would be increased to the public benefit.

Qualifications For Exclusivity

One area of concern for Arch and similarly situated PCP operators is the Commission's proposal regarding qualification for exclusivity for more than one channel in an area. The Commission's proposal suggests that applicants be limited to one channel at a time. If this limitation is applied, then licensees will lack necessary operational and commercial flexibility.

As the Commission is aware, the maturation of the paging marketplace has created numerous types of offerings such as tone, voice, digital, analog, digitized voice, local, regional, nationwide, etc. Some of these offerings are not compatible when a single shared channel is employed, *i.e.*, the offering of non-compatible services reduces spectrum efficiency. The net effect is the number of offerings in a marketplace is reduced to achieve generic compatibility of services to the public.

Arch proposes that the Commission allow operators to develop multiple offerings in a single market, without the risk that its investments will be diluted by allowing additional sharing operators onto the channel. This proposal will create an incentive for greater investment in the development of 900 MHz PCP frequencies and the introduction of a wider spectrum of services to the marketplace.

Arch recognizes that the Commission is concerned that persons could attempt to warehouse frequencies by filing for multiple frequencies in a single area, in an attempt to block competition. This concern is valid, but should not lead the Commission to chill innovation and

investment through a one-per-customer approach. To reconcile the Commission's concerns and to still encourage innovation, multiple service offerings, and aggressive development of the spectrum, Arch suggests that the Commission allow an operator to apply for exclusive use of two frequencies in a market.

Arch believes that adoption of a two-frequency approach will allow serious operators/investors to develop multiple offerings in their markets, enhancing the introduction of innovative services. Meanwhile, the Commission's requirements regarding eight-month construction deadlines, to which operators must judiciously adhere, will prevent unwanted warehousing of frequencies. In sum, the Commission's concerns are met and innovative offerings, customized to meet the specific needs of the marketplace, are made available.

Construction Periods

The Commission's NPRM proposes that systems of more than thirty transmitters might be allowed up to three years to complete construction. Arch supports this proposal as reflecting the realities of growth and the availability of equipment.

If, as Arch believes, the Commission's proposal will spawn increased interest in developing this spectrum, the Commission can expect that demand for 900 MHz paging equipment, both transmitters and pagers, will boom.² The likely effect will be delays in

² Often, examinations of equipment supply problems tend to end at the availability of transmission equipment. However, logic and good business sense demonstrate that an operator which has installed transmitters but has insufficient pagers to provide to potential customers is

delivery from suppliers of the equipment such that achieving an eight-month construction period for large systems might be improbable, despite operators' best efforts.³ Since it is not in the public interest to allow legitimate operators to be thwarted in their efforts due to market factors which are outside of the operators' control, it is incumbent on the Commission to provide some necessary relief.

Arch also notes that mere construction of a system is not the ultimate objective of either the Commission or serious operators. Provision of service to the public is the objective. Accordingly, construction of large systems must be performed in association with greater marketing and sales efforts. These necessary functions also require some additional time to develop and to bring customers onto the system, producing economic viability to create stability and growth.

With larger systems, particularly regional and nationwide systems, this often requires the development of additional sales and maintenance facilities to service geographically separated markets. Additional time is, therefore, needed to construct not only the transmitter network, but to establish the necessary sales and maintenance network to support these systems.

also severely burdened.

³ Another area of concern is the time period for installation of telephone lines. Since there exists a scarcity of spectrum for control facilities to accomplish required simulcasting, operators will need to schedule the installation of telephone lines to carry paging messages to the terminal and often to the associated transmitters. Wireline carriers' construction schedules are often inconsistent with short construction deadlines for paging operators.

Arch's single suggestion for change in the Commission's proposal is that the construction period for nationwide systems be four years. As the Commission has recognized, the realities of the marketplace and the amount of investment required to construct large, integrated systems, require that operators be given a full chance to reap the benefit of their substantial investment. It is illogical, therefore, to put nationwide operators on the same footing with persons which propose to construct a system only one-tenth the size of a nationwide system. To provide fairness and opportunity to nationwide operators, Arch proposes that the Commission allow nationwide systems a four-year construction period.

Frequency Coordination

Arch suggests greater examination of the Commission proposal that coordination duties be shared among the three coordinators, unless there exists a demonstration that no confusion or delay will result from adoption of this proposal. Although the Commission's proposal appears, on first blush, to promote fairness and competition among the three named coordinating entities, the proposal creates a risk that applications will be made to languish while the coordinators coordinate among themselves to avoid the unnecessary creation of competitive applications.⁴ Absent greater assurance that the coordinating committees could function in a manner whereby excessive delay and confusion would not result, it appears that the Commission's proposal places applicants at risk. Since the thrust of much of the Commission's

⁴ The Commission should not bear the burden of holding lotteries among competing applicants which might have been avoided by alternative frequency recommendations, but for a failure to communicate among coordinating entities during the coordination/recommendation process.

NPRM is to eliminate unnecessary risk which stands in the way of investment, Arch suggests that the Commission seek assurances to eliminate risk in this area as well.

Colocation Of Transmitters

The Commission's proposed Section 90.495(a)(1)(ii) appears to support inefficient construction of facilities. As stated *supra.*, Arch believes that the Commission should allow serious operators to customize offerings to the public which might require the use of two channels in a single market. The proposed rule would require duplication of construction, site leases, etc. to accomplish this task. Rather, it appears more logical to allow operators to employ the same transmitters to provide two local services, on an exclusive basis, in a single market. One or both of the frequencies could then be allowed to develop into a regional system, consistent with Section 90.495(a)(2), thereby providing the public with a choice between local or regional coverage. Meanwhile, during the construction phase, the operator would not have to bear the unnecessary expense of duplicating its construction to maintain its exclusivity in the operation of the alternative systems. The net effect is that the public is provided additional choices in services and the operator is provided with greater flexibility and greater resources to develop the regional system, which resources might otherwise have been used in the duplication of construction.

It is clear, therefore, that the Commission needs to examine further whether in its zeal to guard against the warehousing of frequencies, the Commission is inadvertently burdening operators by imposing higher construction costs than are necessary to bring efficient, reliable

services to the public. Arch suggests that following such an examination, the Commission should either delete its proposed Section 90.495(a)(1)(ii) or lessen its adverse impact on operators which desire to operate overlapping regional and local systems on alternative frequencies.

Expeditious Adoption Is In the Public Interest

Arch is pleased that the Commission has not chosen to adopt a prolonged comment and reply period for this proceeding. Inordinate delay might easily undermine the Commission's good intentions in the provision of exclusivity by providing the time for a plethora of applicants to apply for frequencies throughout the United States, which might result in no true exclusivity for any carrier in any major market.⁵ In that event, the best laid plans of Commission might go for naught.

The Commission has already compiled a substantial record in this matter and appears to have a firm grasp of all existing competing interests. Although, like Arch, commenters might find points for comments, small improvements, and helpful suggestions, it is clear that this matter does not require long technical analysis of the issues. The benefits are clear, the public interest is clear, and the path toward adoption is clear. What is also clear is the potential harm which might result from delay.

⁵ A shorter time frame for adoption might also curtail the entrance into the market of purely speculative applications which clog the Commission's processing resources with no resulting benefit to the public. Since these applications are often produced by "application mills" and similar "get rich quick" houses, a shorter time frame toward adoption will limit these entities ability to sell their wares to the unsuspecting public.

Arch strongly encourages the Commission to push ahead expeditiously toward adoption of its proposals and to assist the market in reaping, as soon as is possible and practical, the many benefits which will result from the Commission's fine efforts.


Conclusion

Arch substantially supports rapid adoption of the Commission's proposals, including those few changes cited herein, and requests that the Commission move to improve the efficient offering of 900 MHz PCP services to the public.

Respectfully submitted,

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